

VZCZCXYZ0035
PP RUEHWEB

DE RUEHNR #0200/01 0101400
ZNR UUUUU ZZH
P 101400Z JAN 07
FM AMEMBASSY NAIROBI
TO RUEHC/SECSTATE WASHDC PRIORITY 6571
RUEHGV/USMISSION GENEVA 4085

UNCLAS NAIROBI 000200

SIPDIS

DEPT FOR AF/E MEYERS AND AF/RSA HARPOLE
DEPT FOR DRL/IL TU DANG
DEPT ALSO PASS TO DEPT OF LABOR ILAB FOR TINA MCCARTER

SIPDIS

E.O. 12958: N/A
TAGS: [ELAB](#) [ECON](#) [PHUM](#) [PGOV](#) [KE](#)
SUBJECT: UPDATE OF WORST FORMS OF CHILD LABOR REPORT FOR KENYA

REF: 2006 STATE 184972

1. The following is the updated text of the worst forms of child labor report for Kenya for 2006, as required under the Trade Act, for Department of Labor.

Kenya

Selected Child Labor Measures Adopted by Governments
Ratified Convention 138 4/9/1979 U
Ratified Convention 182 5/7/2001 U
ILO-IPEC Member U
National Plan for Children No
National Child Labor Action Plan Yes
Sector Action Plan No

Incidence and Nature of Child Labor

Although most available data is from the 1999 national household survey, the Central Bureau of Statistics (CBS) plans to release the 2006 survey in January 2007 that should provide updated comprehensive statistics on child labor. In early 2006, the Government of Kenya (GOK) reported that 1.9 million children, between the ages of 5-17, are working. Only 3.2% of these children have attained a secondary school education and 12.7% have no formal schooling at all. (ILO: The End of Child Labor, May 2006). An estimated 32.5% of children ages 5 to 14 years in Kenya were counted as working in 2000. Approximately 34.7% of all boys 5 to 14 were working compared to 30.4% of girls in the same age group.²⁵⁸³ Children living in rural areas were more likely to work than children living in urban areas.²⁵⁸⁴

The commercial and subsistence agriculture, fishing and domestic service sectors employ the largest number of working children.²⁵⁸⁵ Children are found working on tea, coffee, sugar, and rice plantations, fishing boats, and in sand harvesting (quarrying). Children also work in the informal sector, predominantly in family businesses.²⁵⁸⁶ There are large numbers of street children in Kenya's urban centers. Street children are often involved in illegal activities such as drug trafficking.²⁵⁸⁷ Child prostitution is widespread in Kenya, and takes place in bars, discos, brothels, massage parlors, and on the streets.

The joint UNICEF/Ministry of Home Affairs research report released on December 19 2006, Extent and Effect of Sex Tourism and Sexual

Exploitation of Children on the Kenyan Coast, found that 10-15,000 girls living in four main coastal resort areas are involved in casual sex work - up to 30% of all 12-18 year olds living in these areas. A further 2-3,000 girls and boys, up to 45% whom have migrated from other parts of the country, are involved in full-time year round commercial sex activity. 39% of the clients were Kenyan, followed by Italian (18%), German (14%) and Swiss (12%). Unemployment and poverty are prevalent on the Coast, and child sex tourism earns far more than available wage labor. Families turn a blind eye to, or even encourage, their daughters to engage in child sex tourism (CST), seeing foreign tourists as a potential long-term lifeline or path to relative prosperity. The report notes the lack of investigation and prosecution of men, domestic or foreign, for CST and police corruption create a sense of impunity for clients and contributes to community acceptance of CST.

The majority of children exploited in prostitution are between 13 and 17 years old.²⁵⁸⁸ Poverty and an increased number of children orphaned by HIV/AIDS have contributed to a rise in the number of child prostitutes.²⁵⁸⁹ Many girls who hawk or beg during the day reportedly work as prostitutes at night.²⁵⁹⁰ In the agricultural sector, girls are sometimes forced to provide sexual services in order to obtain plantation work. Sudanese and Somali refugee children are also alleged to be involved in prostitution in Kenya.²⁵⁹¹ Child labor is one of many problems associated with poverty. The proportion of the population living in poverty (less than USD 1 per day) has risen from about 48.8% in 1990 to 56% in 2004 according to a 2004 report by Society for International Development.

Kenya is a source, transit, and destination country for child trafficking.²⁵⁹³ Poverty, the death of one or both parents, and self-interest may contribute to a family's decision to place a child in the hands of better-off relatives, friends, or acquaintances who may end up trafficking and/or exploiting the child. Child trafficking in Kenya occurs mainly through personal and familial networks.²⁵⁹⁴ Kenyan children are trafficked internally for sexual exploitation, as well as for work in street vending, agriculture, and forced domestic labor. Kenya's coastal area is a known destination for trafficked children. Children are trafficked there to be sexually exploited in Kenya's growing sex tourism industry. Children from Burundi and Rwanda may have been trafficked to Kenya for sexual exploitation and domestic work.²⁵⁹⁵

Primary education is free and schooling is compulsory through grade 12. However, less than half of children who graduate from primary school continue on to secondary school. The government has provided tuition-free primary education since 2003.²⁵⁹⁶ As a result of this policy, first-time enrollment increased by between 1.1 million²⁵⁹⁷ and 1.3 million children in the year following implementation.²⁵⁹⁸ Unintended results of the policy have included overcrowded classrooms due to increased enrollment, insufficient numbers of teachers, and inadequate financial resources. Enrollment in primary schools rose from 7.4 million in 2004 to 7.6 million in 2005.

According to the Kenyan Economic Survey 2006, primary schools gross enrollment ratio was about 105% in 2005, while net enrollment ratio increased from 82.1% to 83.2% between 2004 and

12005. Gross and net enrollment ratios are based on the number of students formally registered in primary school and therefore do not necessarily reflect actual school attendance. In 2000, 74.9% of children ages 5 to 14 years were attending school.²⁶⁰⁰ As of 2001, 59% of children who started primary school were likely to reach grade 5.²⁶⁰¹ However, there remains a gender bias in school access, with girls reportedly experiencing greater difficulty in accessing education than boys.²⁶⁰² As the government expands primary education, it faces the challenges of high numbers of overage students, lack of teachers in some areas or overworked teachers, teaching material shortages, large class sizes, lack of classrooms, and inadequate facilities.²⁶⁰³

Child Labor Laws and Enforcement

The Children's Act of 2001 prohibits all forms of child labor that are exploitative and hazardous, or that would prevent children under the age of 16 from going to school.²⁶⁰⁴ However, this law does not apply to children who work in agriculture or as apprentices under the terms of the Industrial Training Act.²⁶⁰⁵ The worst forms of child labor may be prosecuted under different statutes in Kenya. The Constitution prohibits forced and bonded labor, servitude, and slavery.²⁶⁰⁶ The Children's Act prohibits child sexual exploitation.²⁶⁰⁷ The Penal Code prohibits procurement of a girl under 21 for the purpose of unlawful sexual relations.²⁶⁰⁸ Kenya does not explicitly prohibit trafficking in persons, but the Penal Code criminalizes child commercial sexual exploitation, child labor, and the transportation of children for sale.²⁶⁰⁹ On July 14, 2006, President Mwai Kibaki signed into law the Sexual Offenses Act, which specifically criminalizes trafficking for sexual exploitation, child trafficking, and promotion of child sex tourism and child prostitution, and imposes prison terms of 10-20 years and/or large fines. The Children's Act prohibits children under 18 years from being recruited in armed conflicts or participating in hostilities.²⁶¹⁰

The Ministry of Labor and Human Resource Development is responsible for enforcing child labor legislation with its Child Labor Division, but is assisted by other departments and agencies when specific expertise is required.²⁶¹¹ Labor inspectors and occupational health and safety officers have been trained in child labor reporting²⁶¹² and labor inspection reports include findings on child labor.²⁶¹³ According to the U.S. Department of State, the Ministry of Labor and Human Resource Development's enforcement of the minimum age law was minimal.²⁶¹⁴ The Ministry of Labor and Human Resource Development has indicated that its inspectorate department, which is the main unit responsible for enforcing compliance, is understaffed.²⁶¹⁵ As of late 2005, the Ministry's Directorate of Occupational Health and Safety Services only had 57 inspectors to cover the whole country.²⁶¹⁶ The Department of Children's Services is responsible for the administration of all laws regarding children, conducts awareness-raising activities regarding children's rights, and manages child rehabilitation institutions.²⁶¹⁷ The Ministry of Tourism and Wildlife's Hotel and Restaurant Authority (HRA), inspects and annually licenses all hotels, lodges and restaurants, sites where child sex tourism is rampant at Coastal resorts.

The Government of Kenya is working with the

International Organization for Migration to institutionalize efforts to combat trafficking in persons. On December 5, an inter-Ministerial meeting including the Office of the President, Home Affairs (MHA), Tourism and Wildlife, Foreign Affairs, Justice and Constitutional Affairs, Gender, and Education, plus the Police, and Attorney General agreed that MHA should lead the anti-TIP Steering Committee and the Task Force to draft a National Plan of Action. On January 5, 2007, Vice President and Minister of Home Affairs Moody Awori released new child welfare guidelines that create Area Advisory Councils in the country. The councils are to ensure that charitable children's institutions are managed in line with stipulated regulations.

Kenya has adopted stricter border controls, and established a Human Trafficking Unit (HTU) of the Kenyan police. As of December 2006, the HTU had not conducted any investigations into trafficking cases. However, in late 2006, Kenya shifted the HTU into a new Community Policing, Gender and Children's Protection Unit led by a Deputy Commissioner of Police who expressed enthusiasm to the Embassy TIP officer about covering TIP.

Current Government Policies and Programs to Eliminate the Worst Forms of Child Labor

In February 2006, the government renewed the three-year mandate for the National Steering Committee on the Elimination of Child Labor. Members include the Attorney General, eight ministries, representatives of children welfare organizations, and non-governmental organizations, unions and employers. An Inter-Ministerial Coordination Committee on Child Labor chaired by the Vice President is responsible for setting general policy. The government's National Development Plan for 2002-2008 recognizes child labor as a problem and calls for an evaluation of the impact of child labor on the individual and the country, as well as its implications on the quality of the future labor force.²⁶²¹ Kenya's National Policy on Child Labor aims at strengthening the framework for coordination, monitoring and initiating realistic strategies for preventing, protecting, rehabilitating and reintegrating children from child labor, especially in its worst forms, and providing access to alternative forms of education and skills training for sustainable livelihoods. The National Steering Committee met with stakeholders to review the updated policy and discuss the National Plan of Action in September, and the Inter-Ministerial Coordinating Committee is reviewing the recommendations from the Steering Committee.

The GOK is taking part in a 3-year, USD 5.3 million USDOL-funded ILO-IPEC regional project aimed at building capacity to eliminate the worst forms of child labor.²⁶²² The government also participates in a 4-year, USD 5 million USDOL funded Timebound Program implemented by ILO-IPEC that focuses on withdrawing and preventing children from engaging in domestic service; commercial sex; commercial and subsistence agriculture; fishing and pastoralism; as well as informal sector street work.²⁶²³ The Ministry of Labor and Human Resource Development, through its district labor officers and inspectors, plays an important role in the child labor committees established by ILO/IPEC NGO partners in 10 districts and five cities. In partnership with the ILO, the government removes children from the street and provides them with educational and vocational training.²⁶²⁴ Kenya is also part of a USDOL-funded regional project that aims to

improve access to and quality of basic, technical, and vocational education and training for HIV/AIDS-affected children who are working or at risk of working in the worst forms of child labor.²⁶²⁵ The government also took part in a Swedish-funded ILO-IPEC project on child labor in domestic work, which ended in June 2005.²⁶²⁶ Kenya also participated in two Dutch-funded inter-regional ILO-IPEC projects which focused on combating child labor with educational interventions.²⁶²⁷ The government also participated in a USDOL-funded ILO-IPEC East Africa Commercial Agriculture project, which ended in May 2005.²⁶²⁸

In 2005, the Kenyan Ministry of Tourism and Wildlife, UNICEF, the World Tourism Organization, and ECPAT worked with hotels and tour operators to increase their awareness of child prostitution and sex tourism and to develop a Code of Conduct to combat child sex tourism and protect children.²⁶²⁹ In 2004, the government implemented a new program requiring owners of tourist guesthouses to register all workers,²⁶³⁰ partly to deter sex tourism.²⁶³¹ Subsequently, eight guesthouses were closed due to violations and the government provided assistance to seven foreign children.²⁶³² Beginning in 2005, the Ministry of Tourism mounted a campaign to register villas and cottages, putting them under the same strictures and requirements as hotels, and encouraging them to participate in the ECPAT Code of Conduct initiative.²⁶³³ By August 2006, about 1,200 were registered. In February 2006, 30 hotels on the Coast, which is the destination of many of the tourists visiting Kenya, signed the ECPAT Code of Conduct. The Ministry of Tourism and Wildlife and the Kenya Association of Hoteliers and Caterers intend to see all hotel operators and other tourism and hospitality firms sign and implement the Code, but there were no further signups in 2006. The Ministry of Tourism and Wildlife plans to make implementation of the Code a condition for annual licensing of hotels, lodges and restaurants by the Hotel and Restaurant Authority.

Vice President and Minister of Home Affairs Awori publicly accepted the UNICEF report on child sex tourism, urged wider hospitality industry participation in the ECPAT Code, and pledged the government would work with UNICEF to develop long-term strategies for child protection and social/behavioral changes. The 2006-2007 budget authorized the Ministry of Home Affairs Child Protection Department to hire an additional 160 children's officers, most of whom will be posted to the field.

Government officials, prosecutors, and police also attended training workshops on human trafficking conducted by the American Bar Association.²⁶³⁴ The government provides shelter and medical care to street children working in commercial sexual exploitation.²⁶³⁵ The government and ILO-IPEC are also working to improve a database on abused children, particularly those who are working.²⁶³⁶

Education sector reforms undertaken by the government include the promotion of the free primary education policy, good governance and school management, as well as the review and development of the curriculum.²⁶³⁷ The Government of Kenya has also received support from UNICEF to raise the enrollment and primary completion rates of girls.²⁶³⁸ The Government of Kenya is currently receiving support from the Education

for All Fast Track Initiative to achieve its goal of implementing universal quality primary education.²⁶³⁹ To support the government's policy of free primary education, the World Bank is providing USD 50 million, the majority of which will be used to expand the Government of Kenya/British Department for International Development textbook program. World Bank funds will also be used for activities such as teacher development and enhancing school accounting policies.²⁶⁴⁰ The U.S. Department of Agriculture is also providing funds to support nutritious school meals for children.²⁶⁴¹

²⁵⁸³ UCW analysis of ILO SIMPOC, UNICEF MICS, and World Bank surveys, Child Economic Activity and School Attendance Rates, October 7, 2005. Reliable data on the worst forms of child labor are especially difficult to collect given the often hidden or illegal nature of the worst forms, such as the use of children in the illegal drug trade, prostitution, pornography, and trafficking. As a result, statistics and information on children's work in general are reported in this section. Such statistics and information may or may not include the worst forms of child labor. For more information on the definition of working children and other indicators used in this report, please see the "Data Sources and Definitions" section of this report.

Footnotes

²⁵⁸⁴ Central Bureau of Statistics--Ministry of Finance and Planning, The 1998/99 Child Labor Report, September 2001, 34; available from <http://www.ilo.org/public/english/standards/ilepoc/simpoc/kenya/report/ken98.pdf>.

²⁵⁸⁵ Ibid., 37.

²⁵⁸⁶ U.S. Department of State, Country Reports on Human Rights Practices- 2004: Kenya, Washington, DC, February 28, 2005, Section 6d; available from <http://www.state.gov/g/drl/rls/hrrpt/2004/41609.htm>

²⁵⁸⁷ Ibid., Section 5. HIV/AIDS and poverty are thought to have contributed to a rise in the number of orphans and street children. See Commonwealth News and Information Service, Better Care Needed for Children Orphaned by HIV/Aids in Kenya, [previously online] April 21, 2004 [cited May 13, 2004]; available from <http://allafrica.com/stories/printable/200404210895.html> [hard copy on file].

²⁵⁸⁸ U.S. Department of State, Country Reports-2004: Kenya, Sections 5 and 6d. See ECPAT International

CSEC Database, <http://www.ecpat.net> (Kenya; accessed June 1, 2005).

²⁵⁸⁹ U.S. Department of State, Country Reports-2004: Kenya, Section 5.

²⁵⁹⁰ ECPAT International CSEC Database, (Kenya; accessed June 1, 2005).

²⁵⁹¹ Ibid.

²⁵⁹² World Bank, World Development Indicators 2005 [CD-ROM], Washington, DC, 2005.

²⁵⁹³ U.S. Department of State, Trafficking in Persons Report, Washington, DC, June 3, 2005; available from <http://www.state.gov/g/tip/rls/tiprpt/2005/46614.htm>.

²⁵⁹⁴ U.S. Embassy- Nairobi official, email communication to USDOL official, August 11, 2006.

²⁵⁹⁵ U.S. Embassy- Nairobi official, email communication to USDOL official, August 11, 2006.

See also U.S. Department of State, Trafficking in Persons Report, Washington, DC, June 3, 2005; available from <http://www.state.gov/g/tip/rls/tiprpt/2005/46614.htm>.

²⁵⁹⁶ U.S. Department of State, Country Reports-2004: Kenya, Section 5. See also UN Commission on Human Rights, Kenya's Statement at the 61st Session on the

Commission on Human Rights, Agenda Item 13: Rights of the Child, 61st, April 7, 2005; available from <http://www.unchr.info/61st/docs/0408-Item13-Kenya.pdf>. 2597 U.S. Department of State, Country Reports-2004: Kenya, Section 5. 2598 See Statement by Kenya 2005, 3. See also UNICEF, Harry Belafonte urges all countries to end school fees, New York, February 18, 2004; available from http://www.unicef.org/media/media_19262.html. 2599 UNESCO Institute for Statistics, <http://stats.uis.unesco.org/TableViewer/tableView.aspx?ReportId=51> (Gross and Net Enrolment Ratios, Primary; accessed December 2005).

2600 UCW analysis of ILO SIMPOC, UNICEF MICS, and World Bank surveys, Child Economic Activity and School Attendance Rates.

2601 UNESCO Institute for Statistics, <http://stats.uis.unesco.org/TableViewer/tableView.aspx?ReportId=55> (School life expectancy, % of repeaters, survival rates; accessed December 2005).

2602 School completion rates for girls have increased, and the Government of Kenya has reported that the completion rate among girls is higher than that for boys. Kenya CRC Coalition, Supplementary Report to Kenya's First Country Report on the Implementation of the UN Convention on the Rights of the Child, Nairobi, March 2001, 5.

2603 Integrated Regional Information Networks (IRIN), "Kenya: Feature: The challenge of providing free primary education", [IRINnews.org](http://www.irinnews.org), [online], February 7, 2003 [cited June 23, 2005]; available from <http://www.irinnews.org/print.asp?ReportID=32164>. See also UNESCO-Nairobi Office, "Kenya launches mass literacy," EFA News No. 4 (May, 2003); available from http://www.unesco.org/education/efa/news_en/28.05.03kenya.shtml.

2604 U.S. Embassy- Nairobi, reporting, August 15, 2003. See also ILO NATLEX National Labor Law Database, Children Act, 2001 (No.8 of 2001); accessed June 23, 2005; available from http://www.ilo.org/dyn/natlex/natlex_browse.html.

2605 See U.S. Department of State, Country Reports- 2004: Kenya, Section 6d.

2606 The Constitution of Kenya, Revised Edition; available from <http://kenya.rcbowen.com/constitution/>.

2607 Integrated Regional Information Network, "Kenya: Focus on New Legislation and Hopes for Child Welfare", [IRINnews.org](http://www.irinnews.org), [online], March 1, 2002 [cited June 23, 2005]; available from <http://www.irinnews.org/print.asp?ReportID=23483>.

2608 Government of Kenya, Penal Code, [previously online], Section 147; available from <http://209.190.246.239/protectionproject/statutesPDF/Kenya1.pdf> [hard copy on file]. See also ECPAT International CSEC Database, (Kenya; accessed June 1, 2005).

2609 U.S. Department of State, Country Reports- 2004: Kenya, Section 5.

2610 The Children's Act of 2001 also states that it is the government's responsibility to protect, rehabilitate, and re-integrate child victims of armed conflict into society. Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2004: Kenya, London, November 17, 2004; available from http://www.childsoldiers.org/document_get.php?id=966.

2611 The Child Labor Division is staffed by 10 officers. Central Bureau of Statistics--Ministry of Finance and Planning, The 1998/99 Child Labor Report, 7. See also U.S. Embassy- Nairobi, reporting, August 23, 2004. U.S. Embassy- Nairobi, reporting, September 14, 2005.

2612 U.S. Department of State, Country Reports-

2004: Kenya, Section 6d.
 2613 Ibid.
 2614 Ibid.
 2615 U.S. Embassy- Nairobi official, email communication to USDOL official, August 11, 2006.
 2616 Ibid. See also U.S. State Department official, email communication to USDOL official, August 18, 2006.
 2617 Central Bureau of Statistics--Ministry of Finance and Planning, The 1998/99 Child Labor Report, 7.
 2618 U.S. Department of State, Trafficking in Persons Report.
 2619 Ibid.
 2620 U.S. Embassy- Nairobi official, email communication to USDOL official, August 11, 2006.
 2621 ILO-IPEC, Technical Progress Report: Prevention, withdrawal, and rehabilitation of children engaged in hazardous work in commercial agriculture in Kenya, Geneva, August 29, 2002, 3.
 2622 The project's core countries also include Ghana, Nigeria, Uganda, and Zambia. ILO-IPEC, Building the Foundations for Eliminating the Worst Forms of Child Labor in Anglophone Africa, project document, Geneva, September 24, 2002.
 2623 The project supports the National Plan of Action for the Elimination of the Worst Forms of Child Labor in Kenya. See ILO-IPEC, Supporting the National Plan of Action for the Elimination of the Worst Forms of Child Labor in Kenya, project document, Geneva, September 30, 2004.
 2624 U.S. Department of State, Trafficking in Persons Report.
 2625 World Vision, Kenya, Uganda, Rwanda, and Ethiopia Together (KURET) Initiative, project document, Federal Way, July 18, 2005.
 2626 ILO-IPEC official, email communication to USDOL official, November 8, 2005.
 2627 One project was funded at USD 2.47 million and ended in December 2005, while the other, which focuses on child domestic workers, was funded at USD 391,615 and is slated to end in February 2006.
 Ibid.
 2628 ILO-IPEC, Prevention, withdrawal and rehabilitation of children engaged in hazardous work in the commercial agricultural sector in Africa, project document, Geneva, September 28, 2000.
 2629 U.S. Embassy- Nairobi official, email communication to USDOL official, August 11, 2006.
 2630 U.S. Department of State, Trafficking in Persons Report 2005.
 2631 U.S. Department of State, Country Reports-2004: Kenya, Section 5.
 2632 U.S. Department of State, Trafficking in Persons Report.
 2633 U.S. Embassy- Nairobi official, email communication to USDOL official, August 11, 2006.
 2634 U.S. Department of State, Trafficking in Persons Report.
 2635 Ibid.
 2636 U.S. Embassy- Nairobi, reporting, August 23, 2004.
 2637 Republic of Kenya, Millennium Development Goals: Progress Report for Kenya, 2003; available from <http://www.undp.org/mdg/kenya.pdf>.
 2638 UNICEF, At a glance: Kenya, in UNICEF, [online] n.d. [cited June 23, 2005]; available from <http://www.unicef.org/infobycountry/kenya.htm> 1.
 2639 World Bank, Education for All Fast Track Initiative: Frequently Asked Questions, World Bank, [online] October 14, 2005 [cited January 17, 2006]; available from http://www1.worldbank.org/education/efasti/fa_q.asp.
 2640 World Bank Projects Database, <http://www.worldbank.org> (Free Primary Education Support Project; accessed September 23, 2005).

2641 U.S. Department of State, U.S. Funds Will
Provide School Meals in Latin America, Caribbean,
Press release, Washington, D.C., August 17, 2004;
available from
<http://usinfo.state.gov/xarchives/display.htm?p=washfileenglish&y=2004&m=August&x=20040817152631A&id=20040817152631A&t=livefeeds/wf-latest.html>

RANNEBERGER